

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1249 of 1996

to

FIRST APPEAL No. 1265 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SPECIAL LAND ACQUISITION OFFICER DEPUTY COLLECTOR

Versus

AMRUTBHAI M JOITARAM

Appearance:

Mr.M.R.Anand, Senior Counsel with Mr.L.R.Pujari, AGP for the appellants.

Mr.Nitin Amin, advocate for the respondents.

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 28/06/96

ORAL JUDGEMENT

1. Heard the learned counsel for the respective parties. Appeals admitted. Mr. Nitin Amin waives service on behalf of the concerned respondents in all the matters.

2. At the joint request of the learned counsel for the respective parties, these matters are taken up for final hearing today.

3. These appeals have been filed by the State under section 54 of the Land Acquisition Act read with section 96 of the Civil Procedure Code challenging the common judgment and awards in a group of Land References wherein the market value of the lands on the date of notification under section 4 of the said Act has been determined at Rs. 10/- per sq. mt.

4. The impugned judgment has determined the market value of the lands in question on the basis of a sale instance at exh.36, which is a sale deed. It is pertinent to note that there is only this solitary sale deed on record on the basis of which the trial court has determined the market value of the lands. It is common ground that the lands under acquisition are N.A. lands, whereas there is no direct or intrinsic evidence as to whether the sale instance at exh.36 relied upon by the trial court conveyed lands which were N.A. lands, or not. Thus, in view of this infirmity, both the counsel for the respective parties agreed that determination of market value of the acquired lands on the basis of this solitary sale instance would be hazardous and risky, and may not result in determination of the fair market value.

5. The learned counsel for the respective parties also agreed that since there is ample evidence on record as regards the agricultural yield from the lands in question, the capitalisation method as applied to the agricultural yield per annum, would furnish a more proper and legal basis for determination of the market value.

6. Thus, by applying the principle of capitalisation of agricultural income to the facts of the above case, the following conclusions become inevitable.

6.1 On the basis of evidence led by the claimants, the submission before the trial court was that the gross income per vigha would be Rs.5000/- per annum, and deducting 1/3rd as input costs, the net income per vigha would amount to Rs.3500/-, per annum. However, the learned counsel for the State appearing in the trial court had made a submission that the net annual income per vigha, on the basis of the evidence on record would only be Rs. 2,000/- per annum per vigha. It appears that, atleast in trial court, this figure of Rs.2,000/per annum per vigha was not seriously challenged by the

claimants. Thus the trial court proceeded to capitalise this income by applying a multiplier of 15.

7. However, it is now a well settled principle that when the capitalisation method is applied to agricultural lands and to the net annual income of such lands, the proper multiplier would be 10. This is a principle laid down by the Supreme Court in a number of decisions, and this is jointly conceded by learned counsel for the respective parties.

8. Thus, if the net annual yield of the acquired lands is taken at Rs.2,000/- per annum per vigra and a multiplier of 10 is applied, the result would be Rs.20,000/-. Naturally, this is per vigra. For the purpose of conversion into the value per sq. mt. the same has to be divided by 2300. On Rs.20,000/- being divided by 2300, the result is the market value at Rs.8.69ps. per sq.mt. For the sake of convenience and for the sake of computation in the large number of cases involved, it would be simpler to round off the same to Rs.8.50ps. per sq.mt. The learned counsel for the claimants-respondents has no objection to such rounding off.

9. In the premises aforesaid, the judgment and awards impugned in this group of appeals are required to be modified. The market value of the lands under acquisition is hereby determined at Rs.8.50ps. per sq.mt. The impugned awards shall stand modified only to the aforesaid extent. The rest of the awards as regards solatium, interest, etc. would stand confirmed.

10. The present appeals are therefore partly allowed to the aforesaid extent with no orders as to costs.

11. Decrees accordingly.

12. It is further directed that the appellant-State shall deposit in the trial court the requisite amounts under the present decrees together with cost and interest separately in each Reference within a period of 3 months from the date of receipt of the present judgment.

12. Direct service permitted.
